



Risk Management Advisor

"Providing Effective
Risk Management Services and
Resources for Idaho Citizens"

Office of Insurance Management, Idaho Department of Administration
Spring 2001

Vol. II, No. 9

Do You Need a Workplace Violence Prevention Plan?

Ron Evans, Security Manager, State of Idaho

Guest Columns

"Do You Need a Workplace Violence Prevention Plan?"
page 1

"Motorcycle Awareness"
page 1

"Managing Employment Dispute Issues"
page 2

"New Faces at OIM"
page 3

"Check out our New Website!"
page 3

"Schedule a Defensive Driving Course!"
page 4

The phrase *workplace violence* often conjures images of rampage shootings by disgruntled former postal employees. Acts of workplace violence such as these, though largely reported by the media, represent only a small number of the overall acts of workplace violence that occur every day. According to a May, 1995 study by Workplace Violence Research Institute, "an estimated 16,400 threats are made, 723 workers are attacked, and 43,800 are harassed" every workday. (Workplace Violence: An Employer's Guide)

Other factors are more often involved in workplace violence than guns. Domestic violence, harassment, and health care-oriented work, are just a few of these factors. The Workplace Violence Research Institute has defined workplace violence as: "Any act against an employee that creates a hostile work environment and negatively affects the employee, either physically or psychologically." (Workplace Violence: An Employer's Guide)

- Domestic violence often creeps into the workplace in

the form of threatening phone calls or vicious assaults at the victim's workplace.

- Harassment, ranging from verbal to sexual, is usually committed by a co-worker and results in added stress, depression, and decreased productivity for the one being harassed.

- In California, concern for the safety of health care

workers prompted a 1993 law for hospitals, emergency rooms, and home health services to increase the use of security guards and to increase security training for employees.

The potential impact of violent events on lives is disturbing. In addition, the liability climate must also be considered. Juries have made substantial awards in cases

where they perceived that an employer failed to provide adequate security or was negligent in its hiring practices.

Prevention vs. Reaction

Even if we are fortunate enough not to have directly experienced violence, we know it exists in our society. Most of us have witnessed road rage and similar aggressive acts, and know the potential is there in other areas of our lives. It is crucial to

Continued on page 3

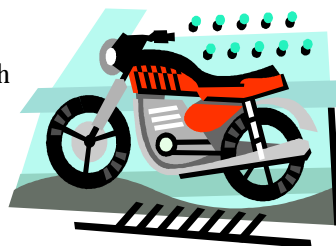
Common Risk Factors in the Workplace

- Lack of physical security
- Poor employment practices
- Aggressive or violent workplace environment
- Domestic dispute issues
- Drug or alcohol abuse by employees
- Availability of handguns in the workplace
- Poor mental or physical health of employees
- Management/labor conflicts

Motorcycle Awareness

*Excerpts from Evergreen Safety Council
"Safety Solutions" December, 2000*

Spring is rapidly approaching, which means more motorcycles are on the road. Drivers don't often see these smaller vehicles because they're not looking for them. Typically drivers are looking for cars or trucks in their field of vision and not concentrating on the possibility of encountering a motorcycle.



Most motorcycle crashes are caused by car drivers, *not* motorcyclists. These accidents most often occur when a car is making a left turn in front of a motorcycle rider or when a driver fails to check a blind spot before changing lanes. And motorcycle accidents are increasing. In 1999 there were 2,537 fatal crashes, compared with 2,284 in 1998, an 11% increase.

Remember when driving that there can be other vehicles of lesser size and visibility than cars and trucks. Motorists need to make motorcycles a part of their mental checklist. To help you become a safer, more aware driver, attend a Defensive Driving Course. (See page 4 for more details.)

Managing Employment Dispute Issues

Dave Sasser, Attorney at Law, Idaho Counties Risk Management Program

"...employment is at the will of either party and may be terminated by the employer or employee at any time for any reason..."

There are several laws managers may overlook when disciplining an employee. See the next issue of RM Advisor to find out what these laws are and how to avoid liability under those laws.

Although Idaho follows what is known as the employment-at-will doctrine, which states that unless an employee is hired pursuant to a contract that specifies the duration of employment or limits the reasons for which an employee may be discharged, the employment is at the will of either party and may be terminated by the employer or employee at any time for any reason, without incurring liability. Many public employers have been named as defendants in employment litigation by former employees which have included claims of wrongful discharge, breach of contract, tortious interference with contract or business relationships, defamation, and numerous state and/or federal statutory claims, such as Title VII claims pursuant to the Civil Rights Act of 1964 or claims based upon the Idaho Commission on Human Rights Act as set forth within Idaho Code Sections 67-5901 et seq.

The following information is intended to highlight some of the problematic issues that have been encountered by defense counsel who have been involved in the defense of public employment cases. There is no representation that this brief article is all-inclusive. This being said, the following constitute some of the practical problems that have recently been encountered by defense counsel in handling these personnel cases:

1. Management/Supervisory Personnel frequently initiate and proceed with personnel actions without consulting with counsel and, in doing so, often fail to recognize that public employees do enjoy various forms of protection from adverse personnel actions.

2. In the absence of counsel for the agency, a supervisor/manager independent of the supervisor/manager proposing the disciplinary action should review the investigatory file and make sure that facts exist that support the proposed personnel action, and that the action is not based on suspicions, inferences or emotional statements that may prove problematic later. Such factual information would normally include the employee's prior personnel records, performance records, evaluations, warnings and/or discipline records.

3. All of the information available indicates that the employer has failed to follow and/or has been inconsistent with regard to the application of policies and procedures and personnel rules applicable within the entity.

4. All information available indicates that the employer has failed to properly conduct regular and honest (non sugar-coated) evaluations.

5. All information presently available indicates that the personnel action currently pending is based upon personality conflicts, rather than deficiencies in performance.

6. The failure of public employers to recognize that personnel cases are generally judged by jurors who are also employees and who generally demand that employers produce evidence that the employer has:

- Clearly informed the employee of the standards of behavior and performance expected of him or her.
- Proven that the employee was given adequate assistance and direction to make it possible for him or her to succeed in their position.
- Proven that the employee had notice of and a reasonable time and a fair opportunity to improve any deficiencies.
- Proven that the inadequate performance or misconduct is sufficiently serious to warrant the disciplinary action which the employer proposes.
- Proven that the employee has been given fair warning of the consequences of continued poor performance or misbehavior.

7. The failure of a public employer to adopt a progressive-discipline plan and the tendency of some employers to think only in terms of termination or ignoring the employee's misconduct or inadequate performance spells out trouble for such employers.

Simply stated, although Idaho is an employment-at-will jurisdiction, Idaho jurors value public employment and expect public employers to take reasonable steps to make it possible for public employees to succeed in their employment.

For Questions About Employment Disputes...

Civil Litigation Division of the Attorney General's Office



www2.state.id.us/ag

208/334-2400

Dave High, Division Chief
Ron Christian, Deputy AG
Dave Lloyd, Deputy AG

New Faces at OIM

The Office of Insurance Management welcomes two new staff members.



Kit Coffin

Kit Coffin joined the Office of Insurance Management as Risk Management Operations Supervisor on January 8, 2001. A graduate of Indiana University, Kit began her insurance career as an adjuster for Wausau Insurance. She has a varied background in the brokerage side

of the insurance business, with an emphasis on client services. Kit comes to us from the Atlanta, Georgia office of Aon Risk Services.

Carol Pettibon

Carol has been with the Office of Insurance Management since January, 2000. She is a licensed, independent adjuster with 28 years of experience as a multi-line property and casualty adjuster. She holds a BS in education from Southwest Missouri State University and an AIC designation from the Insurance Institute of America. She's lived in most states west of the Mississippi but likes Idaho the best.



"Workplace Violence" Continued from page 1

focus on *preventing* violent acts from occurring in the workplace rather than *reacting* to them once they have already taken place.

Workplace Violence Prevention Plan

A Workplace Violence Prevention Plan is one important tool in preventing or mitigating the risk at work. Two important parts of such a plan are increasing physical security and developing a crisis management plan.

The development of a Workplace Violence Prevention Plan is similar in some ways to planning for natural disasters. A recommendation is that physical and personnel resources should be surveyed and evaluated. The security of the physical space should be thoroughly reviewed. A survey of personnel could be conducted to determine who has special skills that might help prevent violence. Are there any former police officers or others who have training? Has anyone on staff received Crisis Intervention Training? These are the most obvious employees with skills, but there may be others, simply because they have a calming personality or inherent ability to reason with situations and people before a critical situation becomes a crisis.

Once these employees have been identified and agree to participate, bring them together into a team. The State Security Manager's office is available to work with state agencies and train employees in areas such as:

Crisis Development, Violence Response Procedures, Recognizing

the Warning Signs of Violence, Assessing Risks, Management of a Complaint, Preparations for Administrative Investigations, Security Planning, and Law Enforcement Assistance

If you are still not convinced that a workplace violence prevention program is needed at your workplace, consider the following. The absolute worst thing that any manager can do is "nothing." Doing nothing at all sends a very strong message to employees, it will affect morale, self-esteem and productivity. I urge you, as managers, to take all of your employee expressed concerns seriously. Whether you agree with the concern or not, isn't the issue. If someone feels uncomfortable enough about a situation or event to express it to their supervisor, it is very real to him or her.

A study by the American Management Association found that...

50% of the companies surveyed reported experiencing incidents or *threats of workplace violence* in the last four years.

30% had experienced violence *more than once*
25% reported that the incident was by a *current employee*

9% reported the problem was caused by a *former employee*

42% of companies that experienced an incident *began training programs* compared to 18% of companies that experienced no incidents
25% reported that the victim *ignored the warning signs*

Workplace Violence Research Institute
"Workplace Violence: An Employer's Guide"

Check out our new website!

The Department of Administration's website got a new face this winter. We hope the new site will make it easier for people to find the information they're looking for.

www2.state.id.us/adm/insurance

Find out all about us and the services we provide to the State of Idaho. Check out the Risk Management Handbook, Statewide Safety and Loss Control Model, and the latest issue of the Risk Management Advisor! Or e-mail us with questions (RM@adm.state.id.us). We'd love to hear from you!

For Questions About Any of These Articles

Ron Evans,
Security Manager,
Dept. of
Administration,
State of Idaho
208/332-1867
revans@adm.state.id.us

Dave Sasser,
Attorney-at-Law,
Idaho Counties Risk
Management Program
208/336-3100

Dave High,
Division Chief,
State of Idaho
Attorney General's
Office
208/334-2400

*"Risk Management Advisor"
is published periodically in
Boise, Idaho by the State of
Idaho Office of Insurance
Management Staff. Every
effort is made to ensure the
accuracy of the information
published; opinions are those
of authors, editors, and
others. If you have any
comments or suggestions,
please contact us at
208/332-1860*

*State of Idaho,
Dept. of Administration,
Office of Insurance
Management
650 W State St.
P.O. Box 83720
Boise, ID 83720-0079
Tel: 208/332-1860
Fax: 208/334-5315*

Cynthia Ness, Manager

*Kit Coffin, Risk Manage-
ment Operations Supervisor*

*Carol Pettibon,
Claims Adjudicator*

*Ray Heidt,
Claims Adjudicator*

*Joan Compton,
Insurance Analyst*

Schedule a Defensive Driving Course!

Prevent injuries to employees and the public and avoid costly auto damage repairs.

Here's how...

1. **You** must have a minimum of 15 students. If your agency doesn't have enough people to meet this requirement, you can join with another agency's class. Maximum class size is 35 students.
2. **Cost** per class is \$600 for Boise area, \$750 outside Boise. The cost is prorated (by NTSI) to each agency participating in the class.
3. **To schedule** a class for your employees, contact NTSI (National Traffic Safety Institute) at 800-776-6874 or www.ntsionline.com.

Benefits

- **Increased safety and awareness** by your drivers
- **\$20 liability premium credit** for each qualified driver, every other year
- **Depending on class size**, the liability premium credit may cover all or part of the cost of the class.



*State of Idaho,
Dept. of Administration,
Office of Insurance Management
650 W State St.
P.O. Box 83720
Boise, ID 83720-0079*